

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

WRIT PETITION NO. 862 OF 2007

Milind Vithal Salgaonkar	.. Petitioner
v/s.	
State of Maharashtra and others	.. Respondents

Mr. R.A. Shaikh i/by Mr. Avinash Chindane for the Petitioner.
Mr. K.R. Belosey, Governemnt Pleader for the State.

**CORAM : SWATANTER KUMAR, C.J. &
DR. D.Y. CHANDRACHUD, J.**

DATED : 15TH OCTOBER, 2007

P.C.

By way of the present petition filed under Article 226 of the Constitution of India, the petitioner questions the correctness and legality of the show-cause notice dated 23rd May, 2003 and the order dated 14th August, 2003 (Exhibits 'A' and 'C' respectively of the petition) passed under Bombay Stamps Act by the competent authority.

2. The necessary facts are that, petitioner who was a stamp vendor was issued stamp vending licence bearing No.LSV-201 to sell stamps, by the respondent No.2, in the month of May, 1997. On 2nd May, 2003 at about 4.20 p.m., according to the petitioner, he had left his business premises for some urgent work and during that period, the said premises were inspected by respondent No.2 under the supervision of Mr. S.C. Shirke, Deputy Superintendent of Stamps, Mumbai. At that time, they found certain irregularities

and the petitioner was not present in the premises. Thereafter, show-cause notice dated 23rd May, 2003 was issued to the petitioner. The petitioner submitted reply to the said show-cause notice on 31st May, 2003. The respondent No.2 then by the impugned order, cancelled the stamp vending licence issued to the petitioner. The petitioner states that he had made various representations for recalling of the said order and for restoration of his licence but with no consequences. According to the petitioner, the impugned order suffers from non-application of mind and even the reply filed by the petitioner had not been considered by the authorities. The order, therefore, is alleged to be arbitrary and it is urged that the consequences of the impugned order are so serious and have been completely disproportionate to the allegations made against the petitioner in the show-cause notice.

3. It is admitted that show-cause notice was issued to the petitioner. The said show-cause notice reads thus-

“SHOW CAUSE NOTICE

Special Squad of the Office visited to your vending place on dt. 02.05.2003 and brought in to notice the following deficiency. Therefore, according to the notice you are required to give explanation for the following points.

1. You were not personally present at the vending place.
2. Except Rs.20/- N.J. Stamp Paper others papers were signed.
3. Stock of Revenue Stamps had not entered since 10 to 15 days in Revenue Register.
4. Revenue Stamps and Court Fee Stamps Stock had

recorded as Nil since 10 to 15 days in registers.

Thus, seriously thinking on above matter, as per this notice give explanation as to why your licence should not be cancelled within four days to the office, otherwise we will think that you don't want to give any explanation for the same and take note that criminal action can also be taken against you.

Sd/-
The Superintendent of Stamps
Mumbai

No. Est./L.[S.V.MISA/1820](#),
The General Stamp Office,
Nagar Bhavan, Fort,
Mumbai 400 023.

Date : 23 May, 2003

Copy to : Mr. Milind Salgaonkar,
(Licensed Stamp Vendor)"

4. In reply to the show-cause notice, it is mentioned by the petitioner that he had gone to his home for some urgent work and, therefore, he was not available at site but the remaining allegations are not correct. This stand of the petitioner could not find favour, resulting in passing of the order dated 14th August, 2003. Even in the reply affidavit filed by the respondent No.2, it is clearly stated that when the Inspection Squad visited the vending site of the petitioner, he was not found there for considerably long time and also there was breach of the provisions of section 63 of the Act. Besides the fact that the allegation made in the show-cause notice in relation to giving stamp papers of denomination of Rs.20/-, it is found that the form had already been signed by the petitioner.

5. It is not for this court to substitute its view with a view taken by the appellate authority unless it is shown that there was no application of mind on the

part of the authorities concerned while passing of the impugned order. Hence, the present case does not call for any interference.

6. Admittedly, in fact, part of the case stated by respondent No.2 in the show-cause notice is admitted by the petitioner even in his reply and the rejoinder filed in this petition. The principle of application of mind does not require the authorities to pass detailed orders. Their record should apparently demonstrate that the matter was considered and upon appropriate application of mind, they have passed the order. In the present case, we are of the considered view that impugned order cannot be set aside on the ground of non-application of mind. For these reasons, we do not wish to interfere in the matter. Writ petition is, accordingly, dismissed. Parties to bear their own costs.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.